

STATE OF VERMONT DEPARTMENT OF FINANCE & MANAGEMENT			
Policy Title:	Suspension and Debarment Policy & Procedures	Policy #:	1
		Issue Date:	4/1/2007
Applicable to:	All State Agencies, Departments and Offices	Revision #:	1
		Revision Date:	1/1/2013
Issued by:	James Reardon, Commissioner Department of Finance & Management	Page:	1 of 5

Policy Statement:

The State of Vermont will not make purchases over \$25,000 or enter into grants or contractual agreements of any amount with vendors that have been suspended or debarred by the Federal government. The State of Vermont will not enter into contracts with employers who are listed on the Department of Buildings and General Services, Office of Purchasing & Contracting Debarment List.

This policy applies to all such purchases and agreements, regardless of funding source.

A. Applicability:

All State of Vermont departments and agencies must follow these procedures for all programs whenever purchasing goods or services from an external vendor, regardless of the source of funds supporting the transaction. This policy does not apply to grants or contracts from one State department or agency to another.

If a vendor becomes suspended or debarred during the life of a grant or contract, the State may continue the agreement if it so chooses. However, the State may not enter into new agreements or amend existing agreements with vendors who are suspended or debarred, with the exception of no-cost time extensions.

B. Background:

Non-federal entities are prohibited by Federal Executive Orders 12549 and 12689 from contracting with or making sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred when the transaction is supported by federal funds. Covered transactions include procurement transactions (purchases of goods or services) equal to or in excess of \$25,000 and non-procurement transactions such as grants or cooperative agreements of any amount. Federal guidelines related to Suspension and Debarment were updated and published in the Federal Register Vol. 68, No. 228, dated November 26, 2003.

In addition, 8 V.S.A. Section 3661 and 21 V.S.A. Sections 692 and 708 require the Agency of Administration to ensure that the state or any of its subdivisions shall not enter into contracts with employers who are prohibited from contracting, directly or indirectly, with the State of Vermont. The Department of Buildings and General Services, Office of Purchasing & Contracting (BGS) maintains a current Debarment List on its website which must be consulted by departments prior to issuance of all new or amended contracts. For further information and requirements regarding the State of Vermont debarment list, please visit the BGS Debarment webpage at <http://bgs.vermont.gov/purchasing/debarment>.

C. Procedures:

Grants and Contracts:

1. All grants, contracts, or other agreements, subject to the terms of Agency of Administration Bulletin 3.5-Contracting Procedures, Bulletin 5-Single Audit Policy for Subgrants, or Bulletin 5.5-Policy for Issuing and Monitoring Grants of State Funds must contain a clause in Attachment C

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Issued by:	James Reardon, Commissioner Department of Finance & Management	Page:	2 of 5

pertaining to Suspension and Debarment. Multi-Use Attachment C, required to be used in each of the above policies, currently contains such a clause, as follows:

Suspension and Debarment: *Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.*

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>.

In accordance with federal regulations and guidelines, the signature of the grantee or contractor on a grant or contract including such a clause is considered certification that the organization is not currently suspended or debarred by the Federal government.

2. State debarment must also be verified by reviewing the Office of Purchasing & Contracting Debarment List found on the Department of Buildings & General Services website at <http://bgs.vermont.gov/purchasing/debarment>.

Amendments: Re-verification of suspension or debarment is required when amending a grant or contract. Unless the entire grant or contractual agreement and all attachments (including the Suspension and Debarment clause) is recreated and signed at the time of amendment, re-verification should occur by following one of the methods outlined in the **Other Transactions** section of this policy.

Statewide Contracts:

The Department of Buildings and General Services includes a Suspension and Debarment clause, similar to the above, in all contracts available for statewide use. This was implemented for all statewide contracts issued effective January 1, 2007. Therefore, departments making purchases from statewide contracts do not have to verify suspension and debarment separately.

Other Transactions:

When making a purchase in excess of \$25,000 not covered under a standard grant or contractual agreement, departments must verify that the vendor is not currently suspended or debarred by the Federal government and not listed on the Office of Purchasing & Contracting Debarment List.

State Debarment Verification: State debarment verification must occur by reviewing the Office of Purchasing & Contracting Debarment List found on the Department of Buildings & General Services website at <http://bgs.vermont.gov/purchasing/debarment>.

Federal Debarment Verification: Federal debarment may be verified in one of two ways: 1.) Look up the vendor in the System for Award Management (SAM – formerly called EPLS) or 2.) Obtain written certification from the vendor.

1. Look up the vendor on the System for Award Management (SAM) maintained by the General Services Administration. This system can be accessed on the internet at <https://www.sam.gov/portal/public/SAM>. This website replaces the former Excluded Parties List

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Issued by:	James Reardon, Commissioner Department of Finance & Management	Page:	3 of 5

System (EPLS) and is designed as a tool to search for organizations that are suspended or debarred by the Federal government.

Documentation that SAM was queried must be kept by the department proving that the vendor was not currently listed. This documentation should include the date queried and a copy of the report generated or a screen print of the SAM results. It should be attached to the payment backup and kept in the department's files for future audit review.

2. Obtain a written certification from the vendor that they are not currently suspended or debarred by the Federal government. This certificate must be signed by the vendor **prior to finalizing the transaction** and must be attached to the payment backup and kept on file for audit purposes. A sample certificate can be found in Appendix I of this policy.

Verification using one of the above methods must be obtained for each separate purchase transaction at the time that the transaction is initiated. In other words, verification must occur when the State is committing funds, such as when an order is placed. A vendor's status is in effect for the current transaction only and could change over time. Therefore, **verification must occur for every purchase transaction over \$25,000 in the aggregate.**

If multiple smaller purchases are part of a larger overall purchase or project, the cost of the aggregate project is used to determine the \$25,000 threshold. Therefore, **splitting purchases into smaller increments to avoid verification of suspension or debarment is prohibited.**

D. Related Regulations:

Federal

- ***Executive Orders #12549 and 12689: Debarment and Suspension***
- ***Governmentwide Debarment and Suspension (Nonprocurement), and Requirements for Drug-Free Workplace (Grants); Rules (Final and Interim Final)*** as published in the Federal Register, Vol. 68, No. 228 and issued November 26, 2003.

State

- ***21 V.S.A. § 692 – Penalties; failure to insure; stop work orders***
- ***21 V.S.A. § 708 – Penalty for false representation***
- ***8 V.S.A. § 3661. Cease and desist powers; prosecutions and penalties***

E. Monitoring:

The Department of Finance & Management may monitor compliance with this requirement on an ongoing basis.

F. Waivers:

In the extreme circumstance that a mandatory purchase can only be made from a suspended or debarred vendor, a waiver can be requested in writing and submitted to the appropriate official as outlined below.

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		Revision Date:	1/1/2013
Issued by:	James Reardon, Commissioner Department of Finance & Management	Page:	4 of 5

Federal Funds - Submit to the corresponding federal agency in accordance with federal regulations. The State of Vermont does not have authority to grant waivers for transactions involving federal funds.

State Funds – Submit to the Commissioner of Finance & Management.

It should be emphasized that a waiver will be approved only under extreme circumstances. All requests must be in writing and must include justification for the purchase itself and proof that the suspended or debarred vendor is the only vendor able to provide the good or service. Waivers for state-funded purchases are at the sole discretion of the Commissioner of Finance & Management and not all waiver requests will be approved.

A copy of an approved waiver request must be attached to the payment documentation and kept on file for audit review. A waiver may be granted for a specific transaction only and may not be applied to future purchases or to purchases made by another department.

G. Policy Effective Date:
Immediately

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		Revision Date:	1/1/2013
Issued by:	James Reardon, Commissioner Department of Finance & Management	Page:	5 of 5

Appendix I

State of Vermont Certificate of Suspension or Debarment

Non-federal entities are prohibited by Federal Executive Orders 12549 and 12689 from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and non-procurement transactions such as grants or cooperative agreements.

I certify, to the best of my knowledge, that this contracting organization and its principals are not suspended, debarred, proposed for disbarment, declared ineligible, or voluntarily excluded by any federal agency from federal procurement and non-procurement programs.

Signed:

_____ Date: _____

Printed Name:

Title:

Organization Name and Address:

